

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ROBERT FLETCHER,	)	
	)	
Plaintiff,	)	7:06CV5001
	)	
vs.	)	ORDER
	)	
STATE OF NEBRASKA, et al.,	)	
	)	
Defendants	)	

This matter is before the Court on the plaintiff's Motion to Amend Complaint (Filing No. 27). The plaintiff attached a copy of the proposed complaint to the motion and it was filed as a separate document. **See** Filing No. 29. The plaintiff is allowed to make the amendment as a matter of course. **See** Fed. R. Civ. P. 15(a).<sup>1</sup> Upon consideration,

**IT IS ORDERED:**

1. The plaintiff's Motion to Amend Complaint (Filing No. 27) is granted.
2. The plaintiff's Amended Complaint is considered filed *instanter*.

DATED this 5th day of April, 2006.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge

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<sup>1</sup>Leave of court is not required for plaintiff to file an amended complaint. Rule 15 (a) provides that "(a) party may amend his pleading once as a matter of course at any time before a responsive pleading is served." Fed. R. Civ. P. 15(a). "A motion to dismiss is not a 'responsive pleading' for purposes of this rule." **See Winfrey v. Brewer**, 570 F.2d 761, 764 n.4 (8th Cir. 1978); **see Stein v. Royal Bank of Canada**, 239 F.3d 389, 392 (1st Cir. 2001); **see also** Fed. R. Civ. P. 7(a).